

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PAINTERS DISTRICT COUNCIL NO 2)	
PENSION TRUST, et al.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:13CV626 HEA
)	
WINKER INC., et al,)	
)	
Defendant,)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on Defendants’ Motion to Dismiss Plaintiffs’ Complaint, [Doc. No. 3]. Plaintiffs oppose the motion. For the reasons set forth below, the Motion to Dismiss is denied.

Plaintiffs brought this action seeking to recover allegedly delinquent employer contributions to various ERISA trusts, and for an audit of Defendants’ books and business records.

Defendants argue that though Plaintiffs state that they are seeking contributions from the two defendant companies and the individual defendant based on a guaranty, Plaintiffs are actually engaged in a “witch hunt” against Defendants. Included in Defendants arguments are allegations regarding matters outside Plaintiffs’ Complaint.

Pursuant to Rule 12(b)(6), an action may be dismissed if the Complaint fails to state a claim upon which relief may be granted. When reviewing a complaint, the Court is limited to the pleadings, and may not consider matters outside the pleadings unless the Court converts the motion to dismiss to one for summary judgment. In the event of the latter, the Court must give the opposing party an opportunity to gather the necessary proof to oppose a motion for summary judgment.

The Court believe that it is more appropriate at this point in the litigation to deny the motion to dismiss rather than convert it to a motion for summary judgment. The case is relatively newly filed and the parties have not had the opportunity to engage in any discovery based on the allegations in the Complaint. It would be counterproductive to allow a motion for summary judgment at this stage.

Accordingly

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss Plaintiffs' Complaint, [Doc. No. 3], is denied.

Dated this 6th day of February, 2014.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE